

REMARKS

Prior to entry of this amendment, claims 1-24 are currently pending in the subject application. By the instant amendment, claims 1 and 17 are amendment, and claim 15 is cancelled. Claims 1, 16 and 17 are independent.

Applicants note with appreciation the Examiner's acknowledgement of applicants' claim for foreign priority and receipt of a certified copy of the priority document.

Applicants note with appreciation the Examiner's acceptance of the drawings filed on January 21, 2004.

Applicants note with appreciation the Examiner's consideration of applicants' Information Disclosure Statements filed January 21, 2004, June 29, 2004, and April 5, 2006.

A. Introduction

In the outstanding Office action,

- (a) claims 1 and 2 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 4,759,366 to Callaghan et al. ("the Callaghan et al. reference") in view of U.S. Patent No. 6,496,723 to Kawachi et al. ("the Kawachi et al. reference");
- (b) claim 14 was rejected under 35 U.S.C. § 103(a) as being unpatentable over the Callaghan et al. reference in view of the Kawachi et al. reference and further in view of U.S. Patent No. 6,280,390 to Akselrod et al. ("the Akselrod et al. reference");
- (c) claims 14, 17, and 18 were rejected under 35 U.S.C. § 103(a) as being unpatentable over the Callaghan et al. reference in view of the Kawachi et al. reference and further in view of U.S. Patent No. 6,261,236 to Grimblatov ("the Grimblatov reference");

- (d) claim 20 was rejected under 35 U.S.C. § 103(a) as being unpatentable over the Callaghan et al. reference in view of the Kawachi et al. and Grimblatov references and further in view of U.S. Patent No. 5,413,101 to Suguira (“the Suguira reference”);
- (e) claims 3-13, 15, 19, and 21-24 were objected to as being dependent upon a rejected base claim, but were indicated as being allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims; and
- (f) claim 16 was allowed.

B. Asserted Obviousness Rejection of Claims 1 and 2

In the outstanding Office action, claims 1 and 2 were rejected under 35 U.S.C. § 103(a) as being unpatentable over the Callaghan et al. reference in view of the Kawachi et al. reference. Applicants respectfully traverse this rejection, and respectfully submit that claim 1, as amended, is in condition for allowance for at least the reasons set forth below.

Independent claim 1 has been amended to include limitations of claim 15, indicated as including allowable subject matter by the Examiner in the Office action of January 23, 2008, at page 7. Accordingly, applicants submit that claim 1 is allowable over the cited prior art, and respectfully request that the rejection of claim 1 and claim 2 dependent thereon be favorably reconsidered and withdrawn.

C. Asserted Obviousness Rejection of Claims 14, 17, 18, and 20

In the outstanding Office action, claim 14 was rejected under 35 U.S.C. § 103(a) as being unpatentable over the Callaghan et al. reference in view of the Kawachi et al. reference and further in view of the Akselrod et al. reference, claims 14, 17, and 18 were rejected under 35 U.S.C. § 103(a) as being unpatentable over the Callaghan et al. reference in view of the Kawachi et al. reference and further in view of the Grimblatov reference, and claim 20 was

rejected under 35 U.S.C. § 103(a) as being unpatentable over the Callaghan et al. reference in view of the Kawachi et al. and Grimblatov references and further in view of the Suguira reference. Applicants respectfully traverse these rejections for at least the reasons set forth below.

Independent claim 17 has been amended to recite that an apparatus for evaluating human stress using photoplethysmography includes, *inter alia*, “a display unit configured to display the level of human stress evaluated by the signal processing unit.” Applicants respectfully submit that the added limitation of claim 17 parallels the language of claim 15, indicated as including allowable subject matter by the Examiner in the Office action of January 23, 2008, at page 7. Accordingly, applicants submit that claim 17 is allowable over the cited prior art. Claims 14, 18, and 20 depend from independent claims 1 and 17 and, therefore, are allowable for at least the reasons claims 1 and 17 are allowable. Applicants, therefore, respectfully request favorable reconsideration and withdrawal of the rejections of claims 14, 17, 18, and 20.

D. Allowable Subject Matter

Applicants note with appreciation the Examiner’s indication of allowable subject matter in claims 3-13, 15, 19 and 21-24 and the allowance of claim 16. Applicants respectfully submit, however, that all claims are in condition for allowance.

E. Conclusion

The above remarks demonstrate the failings of the outstanding rejections, and are sufficient to overcome them. However, while these remarks may refer to particular claim elements, they are not intended to, nor need they, comprehensively address each and every reason for the patentability of the claimed subject matter over the applied art. Accordingly, applicants respectfully submit that the claims are allowable for reasons including, but not

limited to, those set forth above, and patentability of the claims does not depend solely on the particular claim elements discussed above.

If the Examiner believes that additional discussions or information might advance the prosecution of the instant application, the Examiner is invited to contact the undersigned at the telephone number listed below to expedite resolution of any outstanding issues.

In view of the foregoing amendments and remarks, reconsideration of this application is earnestly solicited, and an early and favorable further action upon all the claims is hereby requested.

Respectfully submitted,

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PETITION and
DEPOSIT ACCOUNT CHARGE AUTHORIZATION

This document and any concurrently filed papers are believed to be timely. Should any extension of the term be required, applicant hereby petitions the Director for such extension and requests that any applicable petition fee be charged to Deposit Account No. 50-1645.

If fee payment is enclosed, this amount is believed to be correct. However, the Director is hereby authorized to charge any deficiency or credit any overpayment to Deposit Account No. 50-1645.

Any additional fee(s) necessary to effect the proper and timely filing of the accompanying-papers may also be charged to Deposit Account No. 50-1645.